

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TYRONE MCDUFFIE,

Plaintiff,

MEMORANDUM & ORDER

22-CV-5297 (EK) (SJB)

-against-

SGT. CHARLES SENAT, a Police Officer
from the New York City Police
Department, in his Individual and
Official capacity, et al.,

Defendants.

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ERIC KOMITEE, United States District Judge:

The Court has received Magistrate Judge Sanket
Bulsara's *sua sponte* Report and Recommendation ("R&R") dated
February 14, 2023. Docket Order dated Feb. 14, 2023. Judge
Bulsara recommends that I dismiss this action against Defendants
Sgt. Charles Senat, P.O. Shenique Rosario, Several Unknown
Officers from the New York City Police Department, and Several
Unknown Security Officers from Resorts World Casino New York
City without prejudice, pursuant to Federal Rule of Civil
Procedure 4 (m), for Plaintiff's failure to timely serve the
defendants with the complaint and a summons. No party has filed
objections, and the time to do so has expired. Accordingly, the
Court reviews Judge Bulsara's recommendation for clear error on
the face of the record. See Fed. R. Civ. P. 72(b) advisory

committee's note to 1983 addition; *accord State Farm Mut. Auto. Ins. Co. v. Grafman*, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013).

Having reviewed the record, I find no clear error and therefore adopt the R&R in its entirety, with one clarification. The R&R does not explicitly recommend dismissal of the action as to Defendant Resorts World Casino New York City. Because Plaintiff has similarly omitted to provide proof that the complaint and a summons were served on Resorts World Casino New York City, the action must also be dismissed as to this defendant. See Fed. R. Civ. P. 4(m).

The complaint is therefore dismissed without prejudice. If Plaintiff wishes to continue to prosecute the action, he may refile the action anew and pay the filing fee again. The Clerk of Court is respectfully directed to enter judgment and close this case.

SO ORDERED.

/s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: June 2, 2023
Brooklyn, New York